

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

3M COMPANY,

Plaintiff,

v.

NEXUS MEDICAL LLC,  
VINASIA CHE TAO LLC, and  
DOES 1-10

Defendants.

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Civil Action No. 1:20-cv-00697-LY

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**DECLARATION OF CHARLES STOBIE**

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I, Charles Stobie, pursuant to 28 U.S.C. § 1746 and upon penalty of perjury, declare as follows:

1. I am a resident of the State of Minnesota; over the age of 18; and competent to make this declaration. I could and would testify as to the matters set forth herein, if called upon to do so.

2. I am a Marketing Technologies and Digital Experience Director at 3M Company (“3M”). Until very recently, I served as Global Marketing Operations Leader for 3M’s Personal Safety Division. The information set forth herein is based on my personal knowledge obtained through the course of my duties at 3M, which include, among other things, 3M’s: (i) brand-development and marketing efforts for 3M’s Personal Safety Division; (ii) trademark policies; (iii) sales and pricing guidelines; and (iv) efforts to assist in the battle against COVID-19. The information set forth herein is also based on my review of records and documents (including

electronic records) maintained in the regular course of 3M's business, and the complaint in this lawsuit.

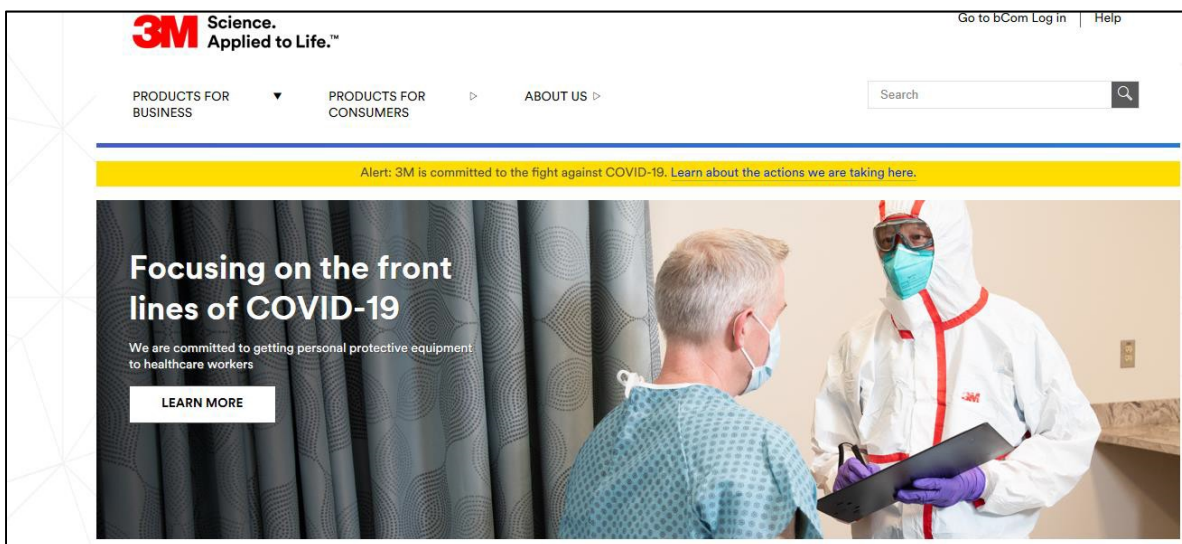
3. I submit this declaration in support of 3M Company's application for a temporary restraining order and preliminary injunction against Defendants Nexus Medical LLC, VinAsia Che Tao LLC, and Does 1-10 (collectively, "Defendants") in the above-referenced action.

### ***3M's Efforts in the Battle Against the COVID-19 Public Health Crisis***

4. For decades, 3M has been a leading provider of personal protective equipment ("PPE") for healthcare professionals, industry workers, and the public. This PPE includes N95 respirators, of which 3M is a leading manufacturer.

5. 3M's N95 respirators can prevent virus-carrying particles from reaching the wearer when appropriately selected, fitted, and worn over the mouth and nose. The 3M-branded N95 respirators are one of three respirator levels that meet the National Institute of Occupational Safety and Health standards for minimum filtration efficiency levels as prescribed by regulation 42 C.F.R. Part 84.

6. As a leading provider of PPE, 3M is "committed to getting personal protective equipment to healthcare workers":



7. Among the PPE that 3M is providing to the heroic individuals on the front lines of the battle against COVID-19 are 3M-brand N95 respirators.

8. Since the outbreak of COVID-19 in early 2020, 3M has doubled its global output rate of filtering facepiece respirators, such as N95 respirators, to 1.1 billion per year, to seek to ensure that adequate supply is available to governments and healthcare personnel, as well as to workers in other critical industries, including food, energy and pharmaceutical. *See Exhibit 1 (3M Outlines Latest Actions on COVID-19 Response, 3M Company, available at <https://news.3m.com/press-release/company-english/3m-outlines-latest-actions-covid-19-response> (March 31, 2020)).*

9. 3M is currently producing 50 million of its 3M-brand N95 respirators each month in the United States. *See Ex. 1; see also Exhibit 2 (3M and Trump Administration Announce Plan to Import 166.5 million Additional Respirators into the United States Over the Next Three Months, 3M Company, available at <https://news.3m.com/English/press-releases/press-releases-details/2020/3M-and-the-Trump-Administration-Announce-Plan-to-Import-1665-Million-Additional-Respirators-into-the-United-States-over-the-Next-Three-Months/default.aspx> (Apr. 6, 2020)).* Approximately 90% of these respirators are now distributed for use by healthcare workers. *See Ex. 1; see also Exhibit 3 (Helping the world respond to COVID-19, 3M Company, available at [https://www.3m.com/3M/en\\_US/company-us/coronavirus/](https://www.3m.com/3M/en_US/company-us/coronavirus/) (last accessed Apr. 21, 2020)).*

10. In the last seven days of March 2020, alone, 3M sent 10 million of its 3M-brand respirators to healthcare facilities around the United States. *See Ex. 1.* Since then, 3M has imported 166.5 million of its 3M-brand respirators to the United States. *See Ex. 2.*

11. To help meet the growing demand for respirators during COVID-19, 3M has invested the resources needed to double its current global production of 1.1 billion 3M-brand filtering facepiece respirators, such as N95 respirators, a year to 2 billion respirators a year within the next 12 months. *See* Exs. 1, 3.

12. At the same time, 3M has **not** increased the prices that it charges for 3M-brand N95 respirators as a result of the COVID-19 pandemic. *See, e.g.,* Ex. 3 (“We have not increased the prices we charge for 3M respirators in this crisis”).

13. In the U.S., the vast majority of 3M’s respirators are going to healthcare and public health users, with the remaining deployed to other critical industries such as energy, food, and pharmaceuticals. The U.S. distribution of 3M-brand respirators is being coordinated with the Federal Emergency Management Agency, which is basing allocation decisions on the most urgent needs.

14. 3M has received public commendation and praise for its contributions to the COVID-19 pandemic response, particularly with respect to its production of 3M-brand N95 respirators. Based on the public commendation and praise, and widespread media coverage of 3M-brand N95 respirators during the COVID-19 pandemic, the public is more aware now than ever that 3M manufactures N95 respirators and other PPE that is essential to helping protect healthcare personnel and workers by reducing exposure to airborne particles including those that may contain biological material such as viruses like COVID-19.

***3M’s Efforts to Deter Price Gouging and Counterfeiting in Response to the Pandemic***

15. In an effort to thwart third-party price-gouging, counterfeiting, and outright fraud in relation to 3M-brand N95 respirators, 3M has worked closely with law enforcement, retail partners, and others. For example, on March 24, 2020, 3M’s Chief Executive Officer, Mike

Roman, sent a letter to U.S. Attorney General William Barr, and the President of the National Governors' Association, Larry Hogan of Maryland, to offer 3M's partnership in combatting price-gouging. See **Exhibit 4** (*3M Supports Efforts to Curb Pandemic Profiteers*, 3M Company, available at <https://news.3m.com/press-release/company-english/3m-supports-efforts-curb-pandemic-profiteers> (March 24, 2020)).

16. In addition, 3M has (a) posted the single-case U.S. list price for several of its 3M-brand N95 respirators on its website so that customers can more readily identify price-gouging (see **Exhibit 5** (*Fraudulent Activity, Price Gouging, and Counterfeit Products*, 3M Company, available at <https://multimedia.3m.com/mws/media/1803670O/fraudulent-activity-price-gouging-and-counterfeit-products.pdf> (May 18, 2020))); (b) created a form on its website through which customers can report suspected incidents of price-gouging and counterfeiting (see **Exhibit 6** (*3M COVID-19 Anti-Fraud, Anti-Price Gouging, and Anti-Counterfeiting Reporting*, 3M Company, available at <https://engage.3m.com/covidfraud> (last accessed on Apr. 21, 2020))); and (c) established a fraud "hotline" that customers can call to report suspect incidents of price-gouging and counterfeiting (see Ex. 3 at p. 3 ("Call the fraud hotline.")).

17. Collectively, the goal of these efforts is to help protect the public from inappropriate, counterfeit, and/or inferior products and outrageous and unwarranted price inflation. 3M also actively investigates and acts on complaints in order to protect the goodwill and reputation of the 3M brand, as well as to protect customers and healthcare workers who rely upon the availability and proven quality of authentic 3M-brand N95 respirators.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and that this declaration was executed this the 2<sup>nd</sup> day of July, 2020

A handwritten signature in black ink, appearing to read "Charles Stobbie", written in a cursive style.

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CHARLES STOBIE